

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brown et al Attorney Docket No.: 1006.F-5231  
Serial No.: 09/050,614 Examiner: M. Savage  
Filed: March 30, 1998 Group Art Unit: 1723  
Title: A Carrier for Holding a Flexible Fluid Processing Container

PETITION UNDER 37 C.F.R. §1.181  
AND ALTERNATIVELY  
REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.137(a)  
(Renewed Petition under 37 C.F.R. §1.137)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va 22313-1450

RECEIVED  
JAN 9 6 2004  
TC 1700

Dear Sir:

This Petition Under 37 C.F.R. § 1.181 and alternatively Request for Reconsideration Under 37 C.F.R. 1.137(a) (Renewed Petition under 37 C.F.R. §1.137) is being submitted pursuant to instructions contained in the Decision on Petition Under 37 C.F.R. 1.137(b) mailed July 30, 2004 (Attachment 1). An automatic three month extension of time to respond, up to and including December 30, 2004, is respectfully requested. The requisite fee accompanies this Petition.

Applicant hereby petitions that the holding of abandonment in this application be withdrawn under 37 C.F.R. § 1.181, or alternatively, that the Petition for Revival under 37 C.F.R. 1.137(a) be reconsidered/renewed and granted, and that the application be processed for issuance.

**Statement of Facts:**

1. On June 14, 2004, Applicant submitted a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b) (Attachment 2), which is incorporated herein by reference. As set forth in the Petition to Revive, the basis underlying the unintentional nature of the matter was that a Notice of Allowance, apparently issued in the case on March 13, 2003, was never received by the applicant at the designated correspondence address. The matter was exacerbated (as also set forth in the Petition for Revival) by the fact that the Patent Office file for this application was apparently "lost," so it was impossible for Applicant to obtain a copy of the Notice of Allowance to

reply in all respects to the Notice of Allowance as required under 37 C.F.R. § 1.137(b). Applicant did the best it could do under the circumstances – Applicant submitted payment of the Base Issue Fee at the time it submitted its Petition to Revive.

2. The Decision on Petition Under 37 C.F.R. 1.137(b) (Attachment 1) treated Applicant's Petition to Revive as falling under 37 C.F.R. § 137(a) and not 37 C.F.R. § 1.137(b). Also, the Decision on Petition Under 37 C.F.R. 1.137(b) (Attachment 1) indicated that the Notice of Allowance required corrected drawings -- the Applicant was not aware of this at the time it filed its Petition because it had never received the Notice of Allowance and could not ascertain its contents because the Patent Office file for this application had been "lost." Further, although the Decision on Petition Under 37 C.F.R. 1.137(b) (Attachment 1) indicated that a copy of the Notice of Allowance was attached to the Decision, unfortunately it was not. In response to Applicant's subsequent request, Applicant on October 5, 2004 for the first time received (by fax) a copy of the Notice of Allowance and Issue Fee Due and Notice of Allowability from Petitions Attorney Derek Woods (which will be collectively called the "Notice of Allowance" and which is Attachment 3).

**Petition/Request for Reconsideration (Renewed Petition under 37 C.F.R. §1.137):**

Pursuant to instructions set forth in the Decision, the undersigned attorney of record for the Applicant hereby states on behalf of the Applicant:

- (1) The Notice of Allowance was not received by the Applicant.
- (2) Applicant attests to the fact that a search of the file jacket and docket records indicate that the Notice of Allowance was not received (see Attachment 4).
- (3) A copy of the file jacket where the non-received Notice of Allowance would have been entered had it been received and docketed, as referred to in (2), is attached as Attachment 4.
- (4) The correspondence address of record is a valid correspondence address. The Decision alleged that the correspondence address had been changed, which is not the case. The correspondence address of record for this application has always been Bradford R. L. Price, Baxter Healthcare Corporation, Fenwal Division (RLP-30), P.O. Box 490, Route 120 and Wilson Road, Round Lake, Illinois 60073) (which is the address on the Notice of Allowance).

As set forth in the Notice of Allowance, Applicant herewith submits the corrected formal drawings.

**Conclusion:**

Applicant therefore believes that the withdrawal of the holding of abandonment is warranted and requests that the application be processed for issuance. It is believed that all requisite fees have been paid. If not, please charge any additional fees to Charge Account No. 06-2360.

Respectfully Submitted,

By

  
Daniel D. Ryan

Registration No. 29,243

Attorney of Record

RYAN KROMHOLZ & MANION, S.C.

Post Office Box 26618

Milwaukee, Wisconsin 53226

(262) 783 - 1300

29 December, 2004



## CERTIFICATE OF EXPRESS MAIL

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Express Mail No.: EV 480412383 US

By:

Julie A. Wolf

Julie A. Wolf

Date: 29 December 2004

RECEIVED  
JAN 06 2004  
TC 1700



## UNITED STATES PATENT &amp; TRADEMARK OFFICE

EXH (1)

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

RECEIVED

AUG 04 2004

Paper No. 30

FENWAL/PATENT LAW

Bradford R.L. Price  
Baxter Healthcare Corporation  
Fenwal Division (RLP-30)  
P.O. Box 490, Route 120 and Wilson Road  
Round Lake, IL 60073

COPY MAILED

JUL 30 2004

OFFICE OF PETITIONS

In re Application of :  
Brown et al. :  
Application No. 09/050,614 :  
Filed: March 30, 1998 :  
Attorney Docket Number: F-5231 : ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application. The petition is properly treated under 37 CFR 1.137(a).

This Petition is hereby dismissed.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is not final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability (hereinafter "Notices"), mailed March 13, 2003. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on June 14, 2003. A Notice of Abandonment was mailed July 17, 2003.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

DOCKETED

DUE:

9/30/2004

CLERK:

DOCKETED  
8/18

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Accordingly, Applicant's assertion, that the Notice was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Petitions to withdraw the holding of abandonment are properly treated under 37 CFR 1.181 (no fee), and are appropriately addressed in the Technology Center that abandoned the application.

Applicant should file a petition under 37 CFR 1.131, and alternatively a Request for Reconsideration under 37 CFR 1.137(a).

Applicant is also advised the the Notice of Allowability required corrected drawings which included the changes required by the proposed drawing correction filed February 10, 2000, which has been approved by the Examiner.

A copy of the Notice of Allowance and Issue Fee Due and Notice of Allowability are enclosed herewith. ←

A refund of the difference between the fee for a petition under 37 CFR 1.137(b), \$1330, and the fee for a petition under 37 CFR 1.137(a), \$110.00, or \$1220.00, has been credited to deposit account 06-2360.

It is also noted that Attorney Ryan has changed his correspondence address; however, there is no indication that a correspondence address change was filed in this application. Any assertion that the Office action was not received must also include a Declaration from Practitioner that, at the time the Office action would have been received at the correspondence

Application No. 09/C-0,614

Page 3

address of record, the correspondence address was in fact a valid correspondence address. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

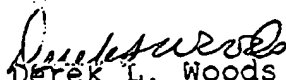
Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

By FAX: (703) 872-9306  
Attn: Office of Petitions

By hand: 220 20<sup>th</sup> Street S.  
Customer Window  
Crystal Plaza Two, Lobby Room 1B03  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

  
Derek L. Woods  
Petitions Attorney  
Office of Petitions

Cc: RYAN KROMHOLZ & MANION, SC  
Post Office Box 26618  
MILWAUKEE, WI 53226

Enclosures: Notice of Allowance and Notice of Allowability

1  
Not attached  
8.5.04  
S/g

EXH ②

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brown et al

Attorney Docket No.: 1006.F-5231

Serial No.: 09/050,614

Examiner: M. Savage

Filed: March 30, 1998

Group Art Unit: 1723

Title: Surgical Weight Control Device

REMARKS ACCOMPANYING PETITION FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

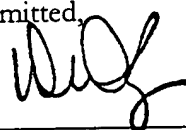
On July 17, 2003, the Patent and Trademark Office issued a Notice of Abandonment in the above matter, stating that applicant failed to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance. Applicant never received the Notice of Allowance.

Applicant intended to immediately petition to revive the application. However, after many phone calls and status inquiries to the Examiner, it was determined that the prosecution file had been lost by the Patent Office. Applicant hired a Washington associate to obtain a PALM printout of the file activity from the Patent Office. According to the PALM printout, the Notice of Allowance was mailed on 13 March 2003.

The official status of the PTO file is "LOST". On January 23, 2004, Applicant requested that the file be reconstructed in accordance with 37 CFR 1.251. Applicant has not yet received a response to this Request.

For these reasons, Applicant has been unable to obtain a copy of the Notice to Pay Base Issue Fee, so that it can reply to the Notice by payment of the Base Issue Fee. It is for this reason that the entire delay in filing the required reply from the due date until the filing of this petition pursuant to 37 C.F.R. § 1.137 (b) was unintentional. In compliance with 37 C.F.R. § 1.137 (c), Applicant hereby submits payment of the Base Issue Fee and, further, requests that the Notice be reissued by the Patent Office and forwarded to the Applicant to the correspondence address set forth in the Declaration previously filed in this case (Bradford R. L. Price, Baxter Healthcare Corporation, Fenwal Division (RLP-30), P.O. Box 490, Route 120 and Wilson Road, Round Lake, Illinois 60073).

Respectfully Submitted,



By \_\_\_\_\_

Daniel D. Ryan

Registration No. 29,243

RYAN KROMHOLZ & MANION, S.C.

Post Office Box 26618

Milwaukee, Wisconsin 53226

(262) 783 - 1300

14 June, 2004

Enclosures: Copy of Statement Under 37 C.F.R. §1.137(b)  
Check

EXH(B)

UNITED STATES PATENT AND TRADEMARK OFFICE  
OFFICE OF PCT LEGAL ADMINISTRATION  
P.O. BOX 1460  
ALEXANDRIA, VA. 22313-1460



FACIMILE TRANSMISSION COVER SHEET

DATE: 10/5/04

TO: Ms Judy Dunaway

TELEPHONE: 262-783-1300

FAX NO.: 262-783-1211

FROM: Donk Woods

TELEPHONE: 571-272-3232

FAX NO: (571) 273-0459

MESSAGE: 8 Pages

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NUMBER OF PAGES INCLUDING THIS PAGE : \_\_\_\_\_



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

03/13/2003

Bradford R.L. Price  
Baxter Healthcare Corporation  
Fenwal Division (RLP-30)  
P.O. Box 490, Route 120 and Wilson Road  
Round Lake, IL 60073

EXAMINER

SAVAGE, MATTHEW O

ART UNIT

CLASS-SUBCLASS

1723

494-045000 27

DATE MAILED: 03/13/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/050,614	03/30/1998	RICHARD BROWN	F-5231	7627

TITLE OF INVENTION: CARRIER FOR HOLDING A FLEXIBLE FLUID PROCESSING CONTAINER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1300	\$0	\$1300	06/13/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Box ISSUE FEE  
**Commissioner for Patents**  
**Washington, D.C. 20231**  
**Fax (703)746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590

03/13/2003

Bradford R.L. Price  
 Baxter Healthcare Corporation  
 Fenwal Division (RLP-30)  
 P.O. Box 490, Route 120 and Wilson Road  
 Round Lake, IL 60073

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/050,614	03/30/1998	RICHARD BROWN	F-5231	7027

TITLE OF INVENTION: CARRIER FOR HOLDING A FLEXIBLE FLUID PROCESSING CONTAINER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1300	\$0	\$1300	06/13/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
SAVAGE, MATTHEW O	1723	494-045000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

## 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☐ Issue Fee  
☐ Publication Fee  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/050,614	03/30/1998	RICHARD BROWN	F-5231	7027

7590 03/13/2003

Bradford R.L. Price  
 Baxter Healthcare Corporation  
 Fenwal Division (RLP-30)  
 P.O. Box 490, Route 120 and Wilson Road  
 Round Lake, IL 60073  
 UNITED STATES

EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1725

DATE MAILED: 03/13/2003

**Determination of Patent Term Extension under 35 U.S.C. 154 (b)**  
 (application filed after June 7, 1995 but prior to May 29, 2000)

The patent term extension is 0 days. Any patent to issue from the above identified application will include an indication of the 0 day extension on the front page.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

Any questions regarding the patent term extension or adjustment determination should be directed to the Office of Patent Legal Administration at (703)305-1383.



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/050,614	03/30/1998	RICHARD BROWN	F-5231	7027
7590	03/13/2003		EXAMINER	
Bradford R.L. Price Baxter Healthcare Corporation Fenwal Division (RLP-30) P.O. Box 490, Route 120 and Wilson Road Round Lake, IL 60073 UNITED STATES			SAVAGE, MATTHEW O	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 03/13/2003				

### Notice of Fee Increase on January 1, 2003

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after January 1, 2003, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there will be an increase in fees effective on January 1, 2003. See Revision of Patent and Trademark Fees for Fiscal Year 2003; Final Rule, 67 Fed. Reg. 70847, 70849 (November 27, 2002).

The current fee schedule is accessible from: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of the fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after January 1, 2003 (or mailed with a certificate of mailing on or after January 1, 2003), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

**Notice of Allowability**

Application No.

09/050,614

Applicant(s)

BROWN ET AL.

Examiner

Matthew O Savage

Art Unit

1723

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 2-10-03.
2. ☒ The allowed claim(s) is/are 19 and 20 renumbered 1-2, respectively.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☒ including changes required by the proposed drawing correction filed 10 February 2000, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

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Art Unit: 1723

This application is in condition for allowance except for the presence of claims 1, 2, 4-18, 22, and 23 drawn to inventions non-elected without traverse. Accordingly, claims 1, 2, 4-18, 22, and 23 have been cancelled.

The following is an examiner's statement of reasons for allowance: U.S. Patent 5,573,678 to Brown et al taken in combination with U.S. Patent 4,445,883 to Schroendorfer are considered the closest prior art, however, neither reference teaches or suggests a carrier secured to the processing container when outside the arcuate centrifuge channel and being shaped to maintain the processing container when outside the arcuate centrifuge channel in a rounded, flexed condition conforming to the arcuate centrifuge channel as recited in instant claim 19.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 6:00am-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

Application/Control Number: 09/050,614

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Art Unit: 1723

872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

*M. Savage*  
Matthew O Savage  
Primary Examiner  
Art Unit 1723

mos  
March 7, 2003

ATTORNEY

**DDR****F-5231**

DOCKET NO.

INDEX

APPLICATION OF

IR# 97-5909

*Richard H. Brown**Ying-Cheng Ko*

ASSIGNED TO

*Bayser International*

CORRESPOND WITH

EXECUTED

RECORDED

*5/18/98*

REEL

*9/90*

FRAME

*0814*

TITLE

*A Carrier for Holding a Flexible  
Fluid Processing Container*SERIAL NO. *09/050,614*

CROSS REFERENCES

FILED *March 30, 1998*

GROUP

SEARCH

DOCKET NO.

DOCKET NO.

SERIAL NO.

SERIAL NO.

FILED

FILED

PATENT NO.

PATENT NO.

ISSUED

ISSUED

ACTION

DUE

STATUS CHECK

*Missing Parts Due - June 30, 1998**Sent May 14, 1998**ADS - May 22, 1998**August 4, 1999 - November 4, 1999**1995 - Sept 22, 1999**Amend A - February 4, 2000**Amend Due - November 3, 2000**Amendment B - 05 February 2001**Office Action 14 June 2001 - 14 Sept 2001**Response filed - 10 Sept. 2001**Office Action FINAL - 27 June 2002**RCE w/Amend (Fax) - 27 September 2002**Petition to Revoke w/RCE - 30 Jan 2003**Notice of AB - 17 July 2003**File Reconstruction - 20 January 2004**Revised DDD - 13 June 2004**Response w/Petition - 14 June 2004**Respond to Petition - 30 September 2004**PCT DOCS CITED  
IN US ON 9-22-99*

ALLOWED / PUBLISHED

FINAL FEE PAID

PATENT NO. / REG. NO.

ISSUED / EFFECTIVE

BATTER FINAL  
S/N 09/050,614  
FOR: A CARRIER FOR HOLDING A  
FLEXIBLE FLUID PROCESSING  
CONTAINER  
F-5231  
P/D 2/20/98

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MILWAUKEE, WI 53203